

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE NORTH DAKOTA LEGISLATIVE COUNCIL**

Amendments to N.D. Admin. Code) Chapter 75-02-07.1, Ratesetting for) Basic Care Facilities (Page 1051))	<u>REPORT OF THE</u> <u>DEPT. OF HUMAN SERVICES</u> July 16, 2003
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For its report, the North Dakota Department of Human Services states:

- 1. This amendment did not result from statutory changes made by the Legislative Assembly.**

- 2. These rules are not related to any changes in federal statutes or regulations.**

- 3. The Department of Human Services uses direct mail and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The department uses a "basic" mailing list for each rulemaking project that includes the county social service boards, the regional human service centers, all Legal Aid offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the department. Additionally, the department constructs relevant mailing lists for specific rulemaking. The department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.**

The department conducts public hearings on all substantive rule-making. Oral comments are recorded. After the hearing, oral comments as well as any written comments that have been received are summarized and presented to the department's executive director, together with any response to the comments that may seem appropriate and a redrafted rule incorporating any change occasioned by the comments.

- 4. One individual appeared and made comments at the public hearing held in Bismarck on September 10, 2002. Written comments were received from eight individuals. The department fully considered each comment. A summary of those comments is attached to this report. The summary identifies the commentors, describes each comment, explains the department's response to each comment, and identifies changes made in the rule to address comments.**
- 5. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule amendment is anticipated to have a significant fiscal impact on the regulated community. A regulatory analysis was prepared and is attached to this report.**
- 6. The approximate cost of giving public notice and holding a hearing was \$672.61.**
- 7. The amendment to North Dakota Administrative Code chapter 75-02-07.1 is found on page 1051 of your materials. This chapter deals with how the Department determines the rates it will pay to basic care facilities.**

Section 75-02-07.1-21 was amended to provide that adjustment factors for direct care, indirect care, and food and plant costs in basic care facilities shall be applied to adjust historical allowable costs. The amendment provides that the adjustment factor applied shall not exceed the lesser of the inflation factor allowed by the legislative assembly or the increase, if any, in the consumer price index. Previously, the only adjustment factor allowed was an increase in the consumer price index.

- 8. A constitutional takings assessment was prepared and is attached to this report.**
- 9. This amendment was adopted as an emergency (interim final) rule. Emergency rulemaking was necessary because in July 2002, the Office of Management and Budget implemented an allotment by which all state agencies had to adjust their budgets to spend 1.05% less than was appropriated by the 57th Legislative Assembly.**

Prepared by:

**Melissa Hauer, Director
Legal Advisory Unit
North Dakota Department of Human Services
July 16, 2003**